



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**FILED**

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**A2212003**

Application of the East Bay Regional Park District for Approval to Construct a Public Pedestrian, Equestrian, and Bicycle At-Grade Crossing of the Niles Canyon Railway at MP 29.60, located within Alameda County-owned right of way, City of Fremont, County of Alameda, State of California

Application No. \_\_\_\_\_

**APPLICATION**

East Bay Regional Park District  
Suzanne Wilson  
Senior Planner – Trails Development  
2950 Peralta Oaks Court  
Oakland, CA 94605  
510-544-2609  
swilson@ebparks.org

Date: December 2, 2022

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of the East Bay Regional Park District for Approval to Construct a Public Pedestrian, Equestrian, and Bicycle At-Grade Crossing of the Niles Canyon Railway at MP 29.60, located within Alameda County-owned right of way, City of Fremont, County of Alameda, State of California

Application No. \_\_\_\_\_

**APPLICATION**

In accordance with Rule 3.7 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission" or "CPUC"), the East Bay Regional Park District ("EBRPD" or "Applicant") hereby seeks authority to construct a public pedestrian, equestrian, and bicycle at-grade crossing of the Niles Canyon Railway ("NCR") tracks located within Alameda County-owned right of way, State of California.

The name and business address of the Applicant is as follows:

East Bay Regional Park District  
2950 Peralta Oaks Court  
Oakland CA 94605

Correspondence and communication with regard to the subject application should be addressed to the following:

Suzanne Wilson. Senior Planner – Trails Development  
2950 Peralta Oaks Court, Oakland, CA 94605  
510-544-2609  
swilson@ebparks.org

Communication regarding legal matters to the subject application should be addressed to the following:

Michael Conneran  
Hanson Bridgett LLP, Partner  
1676 N. California Blvd., Suite 620  
Walnut Creek, CA 94596  
415-995-5042  
[mconneran@hansonbridgett.com](mailto:mconneran@hansonbridgett.com)

In support of its Application, the EBRPD respectfully shows that:

1. This Application is by the East Bay Regional Park District, a public agency, and is filed pursuant to Sections 1201-1205, inclusive, of the California Public Utilities Code.
2. Consistent with Rule 3.7(C)(1) the proposed crossing will serve the public need and is contained within the East Bay Regional Park District's 2013 Master Plan, which shows the Bay Area Ridge Trail crossing the rail corridor north of State Route 84 in Fremont. The development of the Bay Area Ridge Trail is extremely valued in East Bay communities and providing access to the trail from staging areas is critical for the public's enjoyment.
3. The proposed crossing of the Niles Canyon Railway (NCR), operated by the Pacific Locomotive Association ("PLA"), is located at milepost 29.60 per Rule 3.7(a) just east of State Route 238/Mission Boulevard overcrossing (Crossing DOT # 749790F, PUC # 091-29.50-B,) per Rule 3.7(b) in the Niles District of Fremont<sup>1</sup>.
4. PLA leases the rail corridor from Alameda County. This corridor is the original alignment of the transcontinental railroad constructed by the Western Pacific Railroad Company in about 1866.
5. The EBRPD finalized the alignment of the Bay Area Ridge Trail establishing a proposed location to cross the tracks. Topographic and land use constraints fix the location of the crossing. Other than the Mission Boulevard overcrossing, there are no public crossings of the NCR within 1 mile of the crossing proposed in this Application.

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<sup>1</sup> See Exhibits A and B, Crossing Location

6. The PLA is a nonprofit entity that operates the NCR as a museum illustrating railroad operations specifically during the period of 1910 to 1960. Trains travel between Niles and Sunol on the first and third Sundays between February and March as well as September to October. From April to August, trains operate every Sunday. During late November and December, PLA provides a holiday event with trains operating on Wednesday and Friday to Sunday. In total, PLA runs about thirty Sundays per year with about 150 train trips (in each direction through the Canyon), not including holiday and special events, as well as maintenance. The PLA serves about 54,000 riders annually. PLA operates both historic diesel and steam locomotives along the corridor typically with four passenger cars, at a maximum allowable speed of 30 mph. However, the trains typically operate at about 20 mph.

7. In planning for this project, EBRBD completed an outreach process with the community and stakeholders to evaluate crossing options. The group evaluated crossing options in consideration of the following factors:

- user safety;
- minimizing impacts to NCR's operations;
- limiting environmental impacts;
- maintaining the trail user's experience; and
- minimizing capital and operational costs.

8. EBRPD considered four alternatives to cross the NCR including:

- Option 1 - Using the existing sidewalk located along Mission Boulevard to cross under the tracks
- Option 2 - A pedestrian at-grade crossing of the tracks, per Rule 3.7(c) [Proposed project]
- Option 3 - An undercrossing of the tracks
- Option 4- An overcrossing of the tracks

9. Both stakeholders and community members expressed an interest in using the sidewalk located along Mission Boulevard to cross under the tracks<sup>2</sup>. Consistent with Rule 3.7(C)(2) this is not a feasible option as the existing sidewalk is about 5 feet in width and is too narrow to accommodate bicycle, pedestrian, and equestrian users. This configuration does not

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<sup>2</sup> See Exhibit C, Mission Boulevard Undercrossing



comply with a Class 1 trail standard in conformance to the State of California Department of Transportation's guidelines nor is it a reasonable multi-use pathway. This configuration is especially unsafe for equestrian use given the proximity, volume, and speed of the vehicle traffic and the narrow sidewalk width. Retrofitting the roadway to have a Class 1 trail is not possible. The existing width for the north bound lanes from the existing median to the right of way is 40 feet. To maintain two north bound travel lanes, shoulder, and Class 1 facility, the project would require about 49 feet. This would require widening of the roadway, construction of retaining walls, and replacement of the railroad overcrossing (Crossing DOT # 749790F, PUC # 091-29.50-B), which would be an expensive option.

10. The second option considered is an at-grade crossing of the NCR tracks<sup>3</sup> just east of Mission Boulevard. The developed design is consistent with "Pedestrian-Rail Crossings in California" published by California Public Utilities Commission ("CPUC") and dated May 2008.

11. The critical factor in developing an at-grade crossing is providing an unobstructed view for the pedestrian of oncoming trains, allowing the individual to determine if sufficient time exists to cross the tracks safely. This distance depends upon train speed, crossing width, perception-reaction time of a pedestrian, walking speed, and the crossing geometry.

12. To establish the minimum sight distance, the crossing must allow for 2 seconds of pedestrian decision and reaction time. The proposed crossing of the NCR is 34 feet in length. Using a travel speed of 3.5 feet per second ("FPS"); it will take a pedestrian about 10 seconds to cross the tracks (34 feet / 3.5 FPS). Adding 2 seconds of reaction time, the crossing must allow for a total of 12 seconds for a pedestrian to clear the tracks. Thus, pedestrians must have a clear view of 530 feet ( $30 \text{ mph} * 5,280 \text{ feet/mile} / 60 \text{ minutes/hour} / 60 \text{ seconds/minute} * 12 \text{ seconds}$ ) to see a train approaching at 30 mph (maximum travel speed allowed) to determine if they can cross the tracks. As confirmed by field review, there is approximately 530 feet of sight distance available at the proposed track crossing location.

13. Consistent with Rule 3.7(C)(3) this crossing will include signs as well as active traffic control devices, including the installation of two Standard 8 flashing light signal assemblies installed on each approach to the crossing. In addition, on each approach, the crossing will include manually operated swing gates as well as standard regulatory signage.

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<sup>3</sup> See Exhibit D At-Grade Crossing Improvements

14. The owner of the right of way, Alameda County<sup>4</sup> supports the installation of an at-grade rail crossing as indicated in the attached letters of support.

15. The public crossing immediately to the west of the proposed crossing is State Route 238/Mission Blvd., DOT # 749790F, PUC # 091-29.50-B, to the east, the closest public crossing is of State Route 84, DOT # 749791M, PUC # 091-30.80-B.

16. A diagnostic meeting was held at the site on September 28, 2019. See the letter of support attached from the Pacific Locomotive Association<sup>5</sup>, who operates the railroad, for installation of an at-grade rail crossing.

17. The Applicant completed an Initial Study Mitigated Negative Declaration consistent with the California Environmental Quality Act for the At-Grade Crossing. This document was certified in November 2018. The state clearinghouse number is 2018092055<sup>6</sup>.

18. The work to construct the at-grade crossing option includes the removal of the existing tracks, ties, and ballast, which the option replaces with concrete grade panels. It will take about eight weeks to construct this option and limits downtime for NCR to about 2 days. The total cost to implement this option including design, permitting, and construction costs is about \$1 million.

19. Staff of the California Public Utilities Commission encouraged the Applicant to seek an option to enhance the safety of other at-grade crossings of the NCR tracks in the unincorporated Alameda County community of Sunol. Thus, representatives from the Applicant, PLA, Alameda County Public Works Department, and California Public Utilities Commission held a diagnostic meeting on February 15, 2022 at the Kilcare Road at-grade crossing which is Department of Transportation Crossing Number 749797D and CPUC Crossing Number 091-35.60. This location is about 6 miles east of the proposed new at-grade track crossing.

20. The Applicant proposes to complete safety improvements<sup>7</sup> at the Kilcare Road crossing including signs, striping, and other safety improvements in conjunction with the proposed new at-grade crossing.

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<sup>4</sup> See Exhibit H – Elected Official Letters of Support, County Public Works Letter of Support

<sup>5</sup> See Exhibit H – Pacific Locomotive Association Letter of Support

<sup>6</sup> See Exhibit I – Project CEQA Notice of Determination

<sup>7</sup> See Exhibit E – Kilcare Road Crossing Improvements

21. The third option considered is an undercrossing of the NCR<sup>8</sup>. This option takes advantage of the lower terrain located to the south of the NCR by installing a tunnel below the tracks. This would provide pedestrians with a clear height of 10 feet. Given existing terrain located to the north and south of the crossing, the option would require significant excavation to allow the pathway to transition to meet the existing conditions at accessibly compliant grades. The City of Fremont owns and operates the Vallejo Mill Historical Park immediately adjacent to the south of the NCR. The Park is known for its cultural significance and ground disturbance to the adjacent property must be kept to a minimum. Hence, the excavation needed to construct an undercrossing would have cultural impacts.

22. The work to construct the undercrossing would require removal of the tracks and excavation as required to install sections of a prefabricated concrete tunnel. Once installed and backfilled, the option would re-install the tracks. It would take about 3 months to complete this option, during which the NCR would not be allowed to operate in the area. The total cost to construct the option depicted is ranges from \$1.5 million to \$2.2 million. Pedestrians would be located below the ground for a significant stretch of the crossing, which does not provide the optimal user experience and presents potential safety concerns. From feedback received in community meetings, this was not an option desired by the community. The City of Fremont is also opposed to an undercrossing for safety and security reasons since that it would not be easy to patrol for homelessness and criminal activity. The equestrian community especially found this option unfavorable. A tunnel would also result in impacts on cultural resources due to the extensive excavation required for the tunnel in an area adjacent to an historic park. Consistent with Rule 3.7(C)(2), this is not a practical option.

23. The fourth option considered is an overcrossing of the NCR tracks using a prefabricated bridge<sup>9</sup>. This bridge would provide slightly more than 23 feet of clearance above the tracks, featuring abutments on either side of the crossing. The crossing's location minimizes the bridge's span.

24. As the elevation slopes steeply downward to the south and west of the crossing, the bridge option requires significant earthwork to transition using accessible compliant slopes

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<sup>8</sup> See Exhibit F – Undercrossing Option

<sup>9</sup> See Exhibit G – Overcrossing Option

to match the existing conditions requiring the installation of retaining walls<sup>10</sup> south of the bridge. At a slope of 5%, the total length of transition could be up to 800 feet in length. This option would have cultural impacts within the boundaries of Vallejo Mill Historical Park.

25. The work to construct an overcrossing would require earthwork to the north and south of the crossing as well as the installation of abutments and retaining walls. It will take about four months to construct this option requiring flagging during NCR operations while installing the abutments. For the one day required to install the bridge, NCR operations would be limited. The total cost to implement this option is about \$5 million. The equestrian community found this option unfavorable. Due to the visibility of the bridge, retaining walls, and related grading, this option would likely have potential visual and cultural impacts under the California Environmental Quality Act ("CEQA"). Consistent with Rule 3.7(C)(2), this is not a practical option.

26. EBRPD determined that an at-grade rail crossing at this location is the preferred alternative given the following:

- The available sight distance at the proposed at-grade crossing meets the CPUC's guidelines as defined in the, "Pedestrian-Rail Crossings in California"
- Both the speed and volume of train traffic is low at the proposed at-grade crossing
- The volume of expected users on the future 48-inch-wide non-paved trail is low
- The grade crossing option offers the lowest construction phase disruption to NCR
- The option of a bridge presents visual and cultural impacts under CEQA
- A tunnel would provide an undesirable user experience and safety concern
- Both a bridge and tunnel would create hazards for equestrian users
- A tunnel would present safety and security concerns for the City of Fremont
- Both a bridge and tunnel would require substantial long term maintenance costs
- The bridge and tunnel crossings have the potential for significant impact to cultural resources
- Feedback received from the community meeting indicated a preference for an at-grade crossing
- The owner of the right of way, Alameda County, supports an at-grade crossing

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<sup>10</sup> See Exhibit G – Overcrossing noted as walls

- The costs to construct alternatives to an at-grade crossing are prohibitively high

27. This project has been the subject of environmental review (Initial Study/Mitigated Negative Declaration – IS/MND) which was adopted by the East Bay Regional Park District Board of Directors on November 6th, 2018. A Notice of Determination was filed with Alameda County Clerk’s Office on November 8, 2018<sup>11</sup>.

28. The project has an Environmental and Social Justice Action Plan<sup>12</sup>.

29. Scoping Information Required by Rule 2.1(c)

a. Proposed Category

Applicant proposes that the Commission classify this proceeding as rate-setting. Although this Application does not affect rates, the definitions of “adjudicatory” or “quasi-legislative” set forth in Rule 1.3(a) and (d) of the Commission’s Rules of Practice and Procedure clearly do not apply to this Application. Rule 7.1(e)(2) specifies that when a proceeding does not clearly fit any of the categories, it should be conducted under the rate-setting procedures. In addition, Rule 1.3(3) defines rate-setting proceedings to include “other proceeding” that do not fit clearly into any other category.

b. Need for Hearing

East Bay Regional Park District presented the concept of an at-grade railroad crossing publicly at the following events:

- October 14, 2014 – Community Meeting 1 in Sunol to present the overall goals of the study
- January 27, 2015 – Community Meeting 2 in Niles to present potential trail options
- April 14, 2015 – Fremont City Council Meeting to present the overall goals and potential options
- May 12, 2015 – Union City Council Meeting to present overall goals and potential options

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<sup>11</sup> See Exhibit I – Project CEQA Notice of Determination

<sup>12</sup> See Exhibit J – Environmental and Social Justice Statement

- June 18, 2015 – Community Meeting 3 in Niles to present recommended options and next steps
- October 11, 2015 - Niles Canyon Stroll and Roll to present the trail connection
- September 30, 2017 - Niles Canyon Stroll and Roll to present the trail connection
- November 6, 2018 - EBRPD Board meeting that served as the CEQA hearing and adoption
- September 22, 2019 - Niles Canyon Stroll and Roll to present the trail connection
- May 1, 2022 – Niles Canyon Stroll and Roll to present the trail connection
- June 6, 2022 – EBRPD Board Executive Committee meeting

Significantly, at all meetings, the public favored an at-grade crossing. Subsequent to the outreach effort, the EBRPD and Alameda County have received no negative feedback related to the crossing. The railroad operator also supports the at-grade crossing. Given the level of support and the absence of opposition, EBRPD does not believe that hearings are needed for the Commission to act on the EBRPD's request.

c. Issues Requiring Consideration

EBRPD believes that the issue in this proceeding is whether and under what conditions is Commission authorization of the proposed bicycle, equestrian, and pedestrian at-grade crossing of NCR consistent with the public interest, including the safety of the public.

d. Proposed Schedule

EBRPD proposes the following schedule:

December 2022	Application Filed
February 2023	Period of protest or response expires
May 2023	Prehearing Conference (if necessary)
August 2023	Evidentiary Hearing (if necessary)
November 2023	Briefing
December 2023	Issuance of Proposed Decision
February 2024	Issuance of Commission Decision

If there is no opposition to the EBRPD's application or need for evidentiary hearing, the EBRPD believes that a proposed Decision should be issued within 90 days of the filing of the application and final Commission approval issued within 120 days of the filing of the application.

**WHEREFORE**, the East Bay Regional Park District requests that:


1. The Public Utilities Commission of the State of California issue its order authorizing the construction of the Project pursuant to the provisions of Section 1201-1205, inclusive of the Public Utilities Code.
2. The order authorizes the Project upon the terms and condition and division of costs and expenses as are or may be provide for in an agreement to be entered into between relevant parties or in the event the parties fail to agree, upon such terms as will be determined by law.
3. The Commission finds that Project is exempt from the provisions of the California Environmental Quality Act pursuant to Section 15182 of Title 14 of the California Code of Regulations because the Project is undertaken to implement and is consistent with the East Bay Regional Park Master Plan, and, in any case, has been the subject of environmental review (Initial Study/Mitigated Negative Declaration – IS/MND) which was adopted by the East Bay Regional Park District Board of Directors on November 6th, 2018. A Notice of Determination was filed with Alameda County Clerk's Office on November 8, 2018.
4. The Order provide two years from the date of such Order within which to complete the Project.

Dated this 2<sup>nd</sup> day of December, 2022 at Oakland, California.

East Bay Regional Park District  
Suzanne Wilson  
Senior Planner – Trails Development  
2950 Peralta Oaks Court  
Oakland, CA 94605  
510-544-2609  
swilson@ebparks.org

By   
\_\_\_\_\_  
Suzanne Wilson

Michael Conneran  
Hanson Bridgett LLP, Partner  
425 Market St, 26<sup>th</sup> Floor  
San Francisco, CA 94105  
415-995-5042  
[mconneran@hansonbridgett.com](mailto:mconneran@hansonbridgett.com)

By   
\_\_\_\_\_  
Michael Conneran

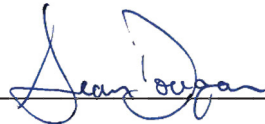


## VERIFICATION

I am the supervising manager of the Applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are stated on information or belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 2<sup>nd</sup>, 2022, at Oakland, California.

A handwritten signature in blue ink, appearing to read "Sean Dougan", is written over a horizontal line.

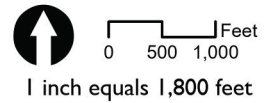
[Sean Dougan/ Trails Program Manager]

**EXHIBIT A – VICINITY OF CROSSING**  
**Consistent with Rule 3.7(e)**

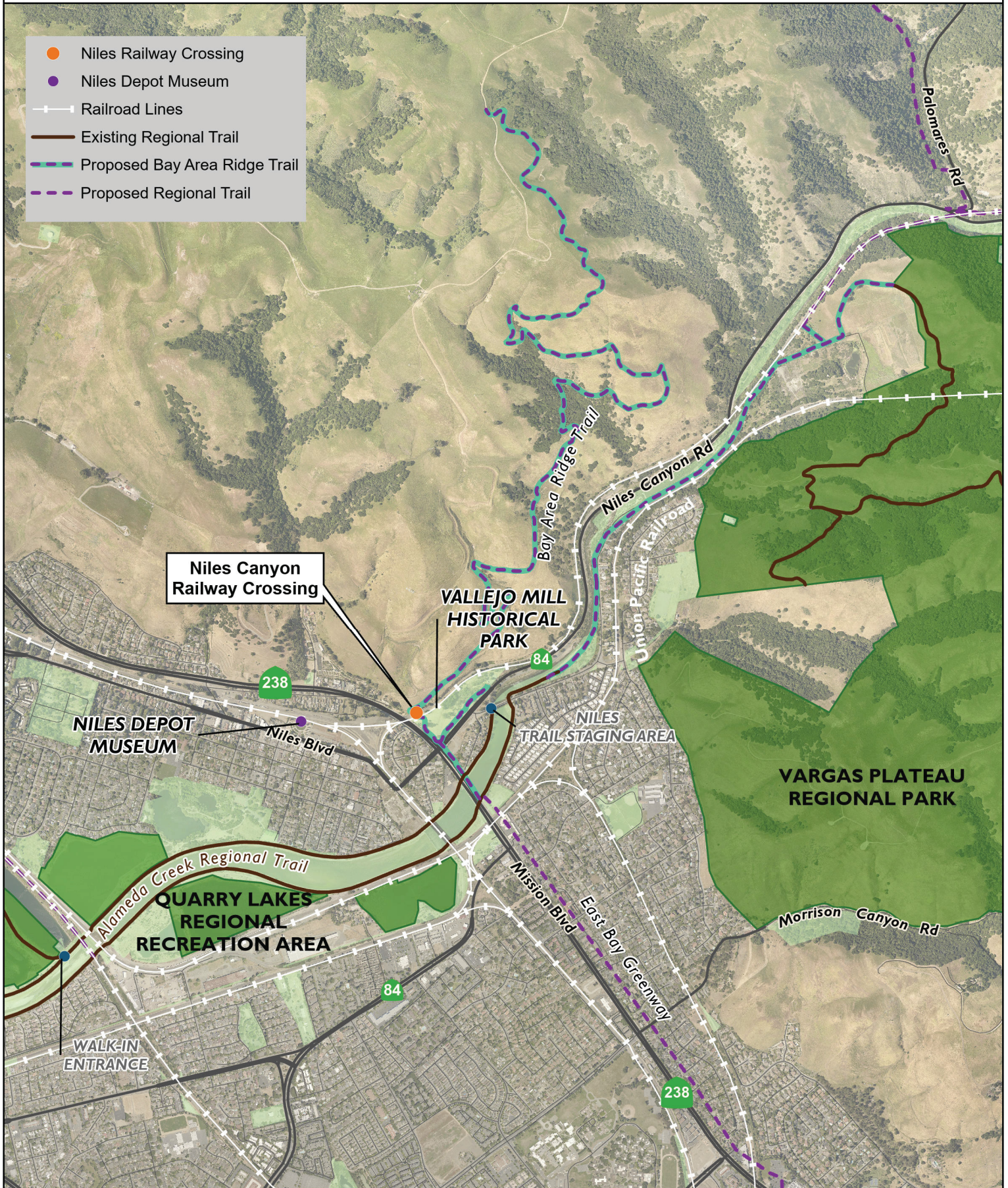


Exhibit A - Vicinity Map, Bay Area Ridge Trail NCR Crossing  
CA Public Utilities Commission (CPUC) Grant Application  
At-grade railroad crossing of the Niles Canyon Railway

**VICINITY MAP**



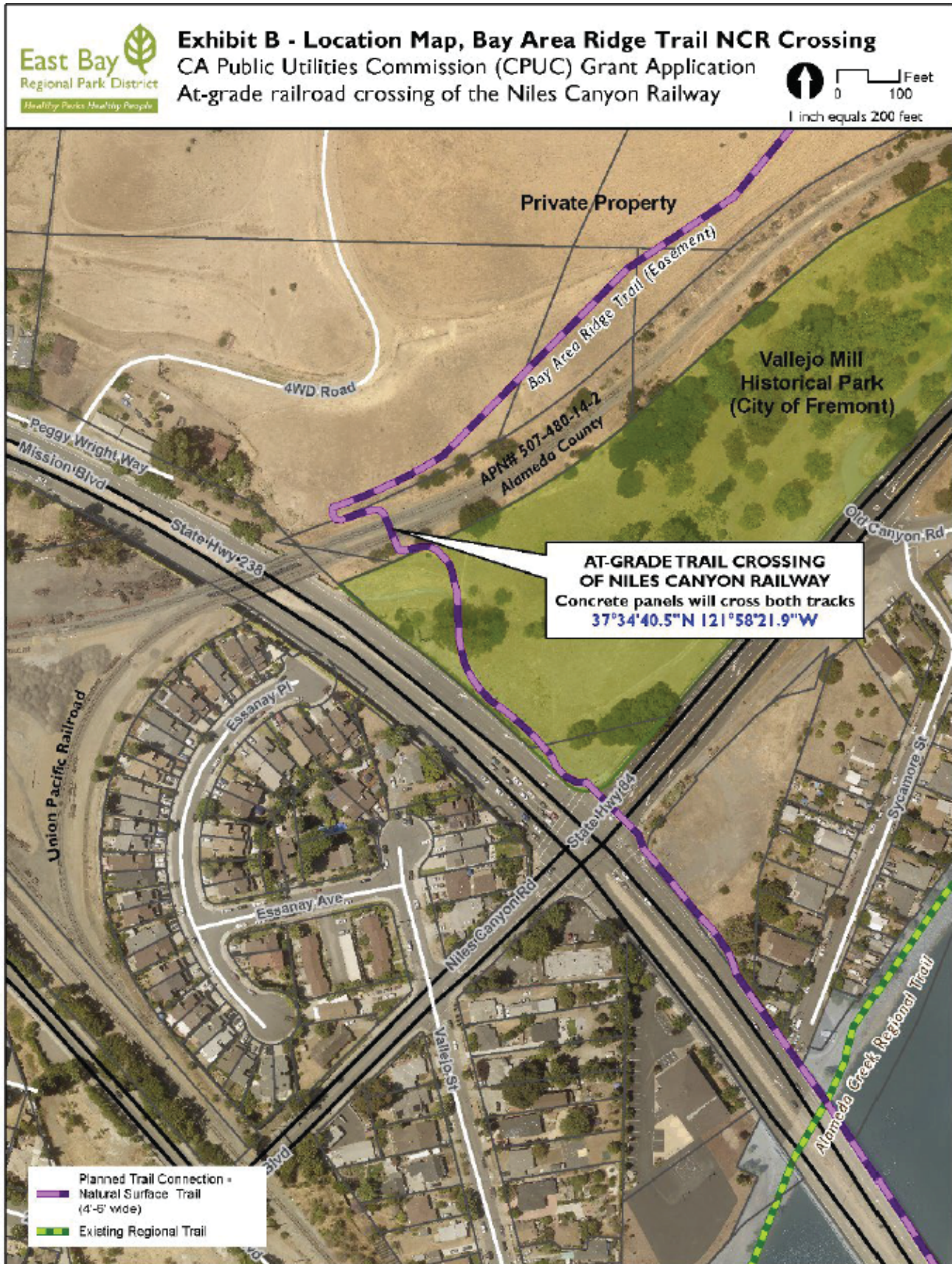
- Niles Railway Crossing
- Niles Depot Museum
- Railroad Lines
- Existing Regional Trail
- Proposed Bay Area Ridge Trail
- Proposed Regional Trail





## EXHIBIT B –LOCATION OF CROSSING

Fulfills Rule 3.7 (a) and (d)





## EXHIBIT B –LOCATION OF CROSSING CONDTINUED



*Location of crossing just east of Mission Boulevard.*



*Location of at-grade track crossing*

**EXHIBIT C**  
**MISSION BOULEVARD UNDERCROSSING**



*Using the existing grade crossing at Mission Boulevard is not feasible as it is narrow and the EBRPD does not have right of way for access.*

**EXHIBIT D – PROFILE OF GROUND LINE OF HIGHWAY AND RAILROAD AT CROSSING**

**Fulfills Rule 3.7 (f)**





## **EXHIBIT E - KILKARE ROAD CROSSING IMPROVEMENTS**



**EXHIBIT F**  
**UNDERCROSSING**



Figure 2-3 – Undercrossing



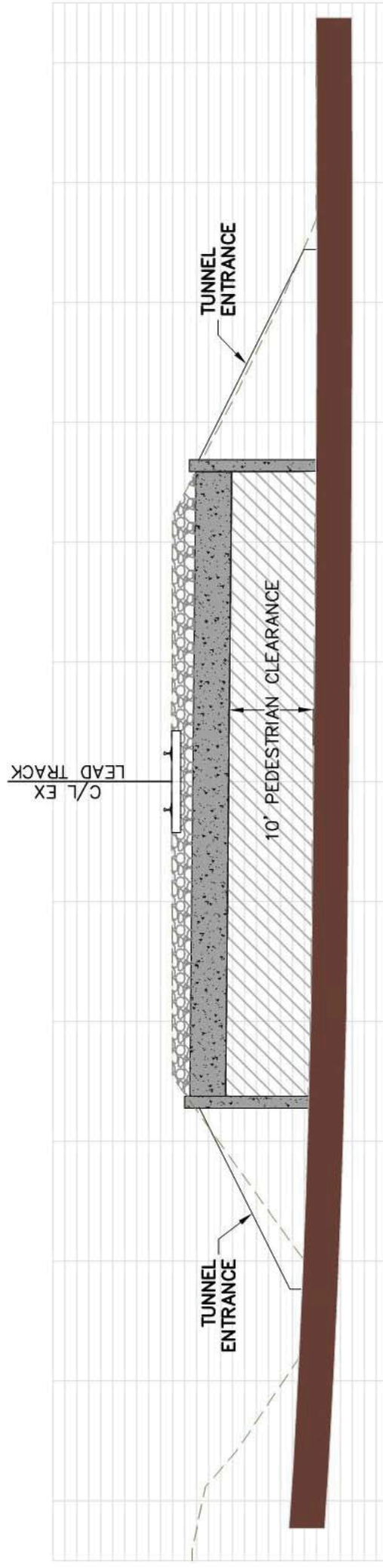
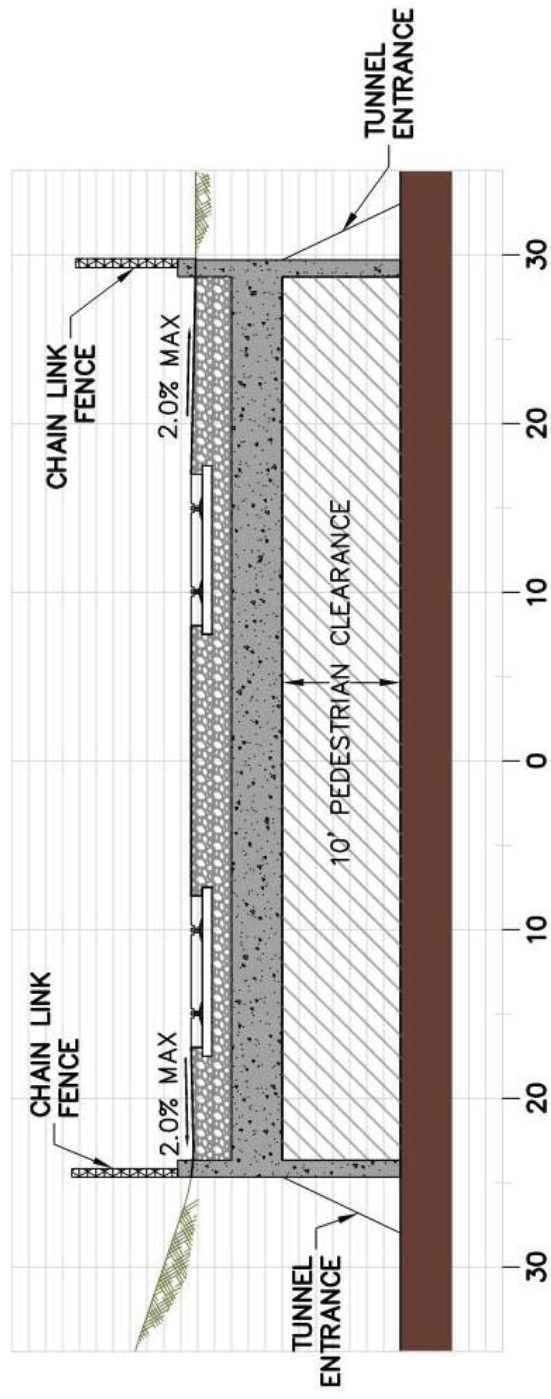


Figure 2-4 – Undercrossing Cross Section

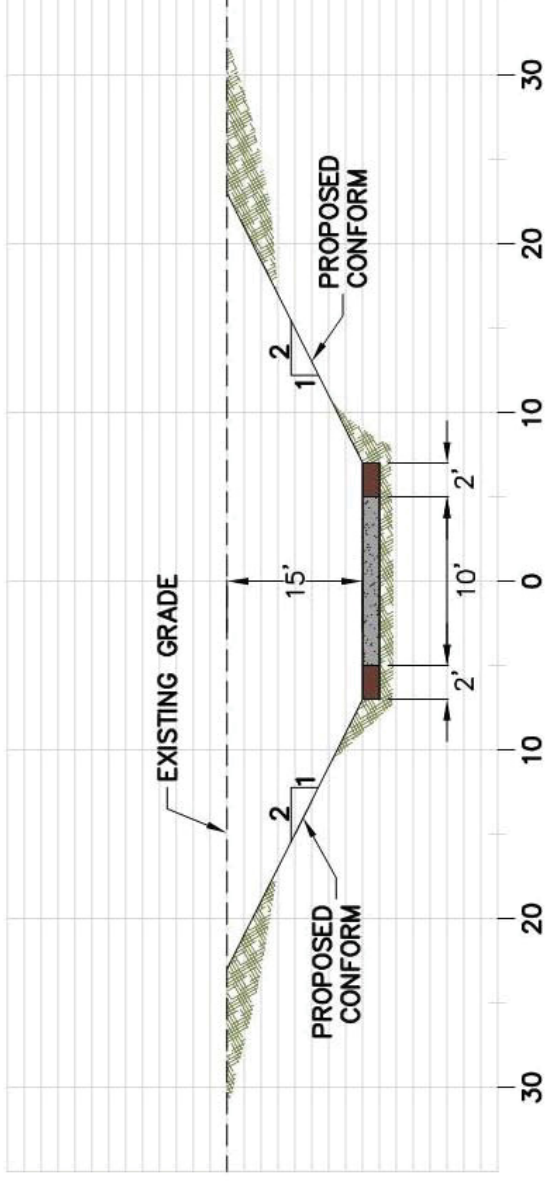




Figure 2-5 – Undercrossing Alternative



SECTION THROUGH TUNNEL  
LOOKING EAST



SECTION THROUGH TUNNEL  
APPROACH

Figure 2-6 – Undercrossing Alternative Section

**EXHIBIT G**  
**OVER CROSSING**





Figure 2-7 – Overcrossing

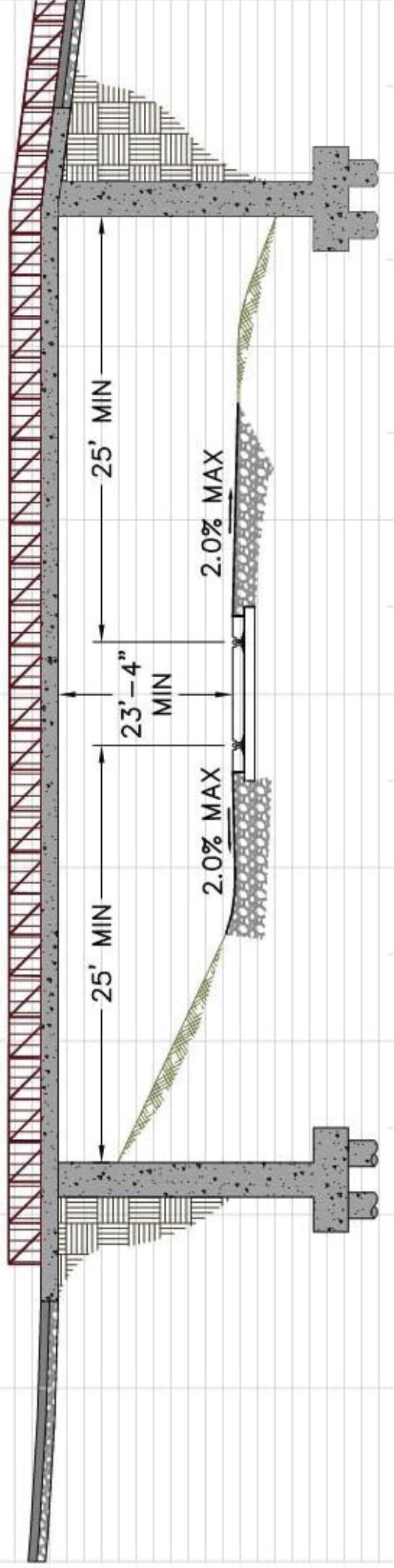


Figure 2-8 – Overcrossing Section

**EXHIBIT H - LETTERS OF SUPPORT:**



**STATE CAPITOL**  
P.O. BOX 942849  
Sacramento, CA 94249-0020  
(916) 319-2020

**DISTRICT OFFICE**  
22320 Foothill Blvd, Suite 540  
Hayward, CA 94541  
(510) 583-8818



**STANDING COMMITTEES:**  
CHAIR: ENVIRONMENTAL SAFETY  
AND TOXIC MATERIALS  
APPROPRIATIONS  
PUBLIC SAFETY  
REVENUE AND TAXATION  
UTILITIES AND ENERGY

August 3, 2022

Felix Ko, P.E., Senior Engineer  
Rail Crossings and Engineering Branch  
San Francisco Office  
505 Van Ness Avenue  
San Francisco, CA 94102

RE: Support for the At-grade crossing of the Niles Canyon Railway

Dear Mr. Ko,

I write in strong support for the East Bay Regional Park District's (Park District) application to install an at-grade crossing of the Niles Canyon Railway (NCR). The NCR crossing will substantially enhance the development of the Bay Area Ridge Trail (Ridge Trail) as it connects Garin Regional Park to Niles Canyon.

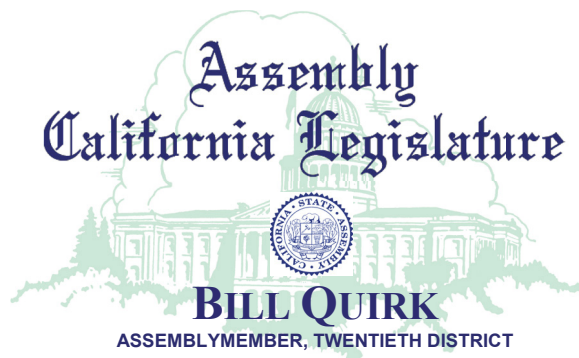
The Park District, in partnership with the County, Alameda County Water District (ACDW), and the San Francisco Public Utilities Commission (SFPUC), funded and managed the Niles Canyon Trail Connectivity Feasibility Study. This study analyzed a potential trail alignment through Niles Canyon and identified the Ridge Trail at-grade crossing of the NCR as an important connector to the Niles Canyon Trail.

As part of the feasibility study multiple crossing alternatives were evaluated including separated and at-grade options. The at-grade crossing was determined to be the most feasible as it is the least impactful to the environment and the operations of the NCR, and it provides a safe and desirable crossing option for trail users.

For mitigation of the project, the Park District will work with the County to install safety improvements for pedestrians and bicyclists at the NCR crossing of Kilkare Road in Sunol, CA. This will be a benefit for the community members of Sunol and regional users, helping to safely connect those traveling on foot or bicycle between Foothill Road and Kilkare canyon to main street.

**STATE CAPITOL**  
P.O. BOX 942849  
Sacramento, CA 94249-0020  
(916) 319-2020

**DISTRICT OFFICE**  
22320 Foothill Blvd, Suite 540  
Hayward, CA 94541  
(510) 583-8818



**STANDING COMMITTEES:**  
CHAIR: ENVIRONMENTAL SAFETY  
AND TOXIC MATERIALS  
APPROPRIATIONS  
PUBLIC SAFETY  
REVENUE AND TAXATION  
UTILITIES AND ENERGY

Thank you very much for your consideration of this project.

Sincerely,

A handwritten signature in blue ink that reads "Bill Quirk". The signature is written in a cursive, flowing style.

Bill Quirk  
Assemblymember, 20<sup>th</sup> District

CC: EBRPD Board of Directors  
EBRPD General Manager



# **PACIFIC LOCOMOTIVE ASSOCIATION**

Incorporated

P.O. Box 515  
Sunol, CA 94586-0515

[WWW.NCRY.ORG](http://WWW.NCRY.ORG)



July 22, 2021

Mr. Sean Dougan  
Trails Development Program Manager  
Acquisition, Stewardship & Development Division  
East Bay Regional Park District  
2950 Peralta Oaks Court  
PO Box 5381  
Oakland, California 94605-0381

RE: At Grade Track Crossing at Vallejo Mills

Dear Sean:

The Pacific Locomotive Association (PLA) leases the Niles Canyon Railway (NCRy) from Alameda County for the purposes of operating a rolling train museum showcasing railroad operations from 1910 to the 1960's. The NCRy serves approximately 54,000 riders per year taking passengers through Niles Canyon from downtown Niles to the town of Sunol.

As the operator of the railroad the PLA supports the proposed passive at-grade crossing as developed by the Park District. The Park District recently met with the PLA and representatives from Alameda County to discuss the proposed design features and process. The PLA supports the Park District's current application for the crossing under review by the California Public Utilities Commission. This letter is an acknowledgement of our support.

The Park District and the PLA have been in discussions about the crossing and other trail related projects in Niles Canyon for over six years. At the request of the CPUC, the Park District analyzed several crossing options, including grade separated crossings. Through that process all parties have come to the conclusion that the at-grade crossing is the preferred option, as it is a less impactful design, but is nonetheless safe, given the non-motorized use of the trail as well as the slow speeds of the trains.

The NCRy understands that the proposed design is consistent with federal and state standards for a railroad track trail crossing. It includes installation of concrete panels, channelization, manual swing gates, detectable warning surfaces, and signage. Upon



# **PACIFIC LOCOMOTIVE ASSOCIATION**

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[WWW.NCRY.ORG](http://WWW.NCRY.ORG)



receiving CPUC approval, the Park District will finalize the design and enter into a license agreement with the County for the crossing. The PLA understands that the Park District will indemnify PLA for any claims resulting from use of the trail, in a manner consistent with applicable law.

The NCRy appreciates that Park District staff will coordinate with NCRy to implement the crossing so that the construction will minimize impacts to the operation of the railroad. In addition, the Park District will coordinate with the NCRy when accessing the railroad right-of-way for maintenance and inspection of the crossing.

Sincerely,

Henry Baum  
President  
925.447.7358  
[president@ncry.org](mailto:president@ncry.org)



May 28, 2021

Mr. Sean Dougan  
Trails Program Manager  
Acquisition, Stewardship & Development Division  
East Bay Regional Park District  
2950 Peralta Oaks Court  
PO Box 5381  
Oakland, California 94605-0381

RE: At Grade Track Crossing at Vallejo Mills

Dear Sean,

Alameda County (County) owns the right-of-way upon which the Pacific Locomotive Association (PLA) operates the Niles Canyon Railway (NCRy). The County entered into a long-term license agreement with the PLA to operate their historic steam and diesel-powered trains along the corridor which expires in September of 2032.

The County understands that the East Bay Regional Park District (Park District) is planning and designing a five-mile section of the regionally significant Bay Area Ridge Trail (Ridge Trail) which will connect Garin Regional Park to Niles Canyon. The project includes a passive at-grade trail crossing of the NCRy at the Vallejo Mill Historic Park in Fremont. The Park District will submit an application to the California Public Utilities Commission (CPUC) for approval of the crossing per State regulations.

The Park District and the County have been in discussions about the crossing and other trail related projects in Niles Canyon for over six years. At the request of the CPUC, the Park District analyzed several crossing options, including separated grade crossings. Through that process all stakeholders have come to the conclusion that the at-grade crossing is the preferred option, as it is a less impactful design, but is nonetheless safe, given the non-motorized use of the trail as well as the slow speeds of the trains.

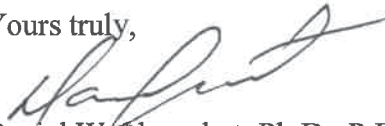
The County understands that the design is consistent with federal and state standards for a passive at-grade railroad crossing. The crossing will include installation of concrete panels, channelization, manual swing gates, detectable warning surfaces and signage.



Upon the Park District receiving CPUC approval for the crossing, the County will seek approval from its Board of Supervisors to modify its license with the PLA to accommodate the crossing and to enter into a license agreement with the Park District allowing for the crossing to function as part of the Ridge Trail.

Please allow this letter to demonstrate the County's support for the Park District's proposed passive at-grade crossing application to the CPUC. Should any additional information be required from the County please contact Hank Ackerman of my staff at (510) 670-5553 or by email at [hank@acpwa.org](mailto:hank@acpwa.org).

Yours truly,

A handwritten signature in dark ink, appearing to read 'Daniel Wolfesenbet', written over a light gray horizontal line.

Daniel Wolfesenbet, Ph.D., P.E.  
Director of Public Works

DW:lr

**STATE CAPITOL**  
Room 4085  
Sacramento, CA 94249-0020  
Phone: (916) 651-4010  
Fax: (916) 651-4110

**DISTRICT OFFICE**  
39510 Paseo Padre Pkwy, St 280  
Fremont, CA 94538  
Phone: (510) 794-3900



**Chair**  
BUDGET SUBCOMMITTEE #2

**Member**  
APPROPRIATIONS  
BUDGET AND FISCAL REVIEW  
ENVIRONMENTAL QUALITY  
HOUSING  
JUDICIARY  
TRANSPORTATION

AUGUST 10, 2022

Felix Ko, P.E., Senior Engineer  
Rail Crossings and Engineering Branch  
San Francisco Office  
505 Van Ness Avenue  
San Francisco, CA 94102

RE: Support for the At-grade crossing of the Niles Canyon Railway

Dear Mr. Ko,

I am writing to express my strong support for the East Bay Regional Park District's (Park District) application to install an at-grade crossing of the Niles Canyon Railway (NCR). The NCR crossing will substantially enhance the development of the Bay Area Ridge Trail (Ridge Trail) as it connects Garin Regional Park to Niles Canyon.

The Park District, in partnership with the County, Alameda County Water District (ACDW), and the San Francisco Public Utilities Commission (SFPUC), funded and managed the Niles Canyon Trail Connectivity Feasibility Study. This study analyzed a potential trail alignment through Niles Canyon and identified the Ridge Trail at-grade crossing of the NCR as an important connector to the Niles Canyon Trail.

As part of the feasibility study multiple crossing alternatives were evaluated including separated and at-grade options. The at-grade crossing was determined to be the most feasible as it is the least impactful to the environment and the operations of the NCR, and it provides a safe and desirable crossing option for trail users.

For mitigation of the project, the Park District will work with the County to install safety improvements for pedestrians and bicyclists at the NCR crossing of Kilcare Road in Sunol, CA. This will be a benefit for the community members of Sunol and regional users, helping to safely

connect those traveling on foot or bicycle between Foothill Road and Kilkare canyon to main street.

Upon approval from the California Public Utilities Commission the County will grant the Park District a license to construct the crossing. This crossing will facilitate access to the Ridge Trail affording our community the ability to enjoy fresh air, nature and exercise. I believe the proposed at-grade crossing is designed with care and is consistent with local, state and Federal guidelines.

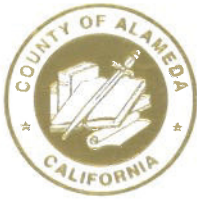
Sincerely,

A handwritten signature in black ink that reads "Robert A. Wieckowski". The signature is written in a cursive style with a large, stylized 'R' and 'W'.

---

Bob Wieckowski  
10th Senate District

CC: EBRPD Board of Directors  
EBRPD General Manager



## BOARD OF SUPERVISORS

DAVID HAUBERT  
SUPERVISOR, FIRST DISTRICT

August 10, 2022

Felix Ko, P.E., Senior Engineer  
Rail Crossings and Engineering Branch  
San Francisco Office  
505 Van Ness Avenue  
San Francisco, CA 94102

### **RE: Support for the At-grade crossing of the Niles Canyon Railway**

Dear Mr. Ko,

On behalf of Alameda County, District 1, I write to express our strong support for the East Bay Regional Park District's application to install an at-grade crossing of the Niles Canyon Railway (NCR). The NCR crossing will substantially enhance the development of the Bay Area Ridge Trail (Ridge Trail) as it connects Garin Regional Park to Niles Canyon.

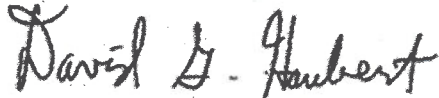
The Park District, in partnership with the County, Alameda County Water District (ACDW), and the San Francisco Public Utilities Commission (SFPUC), funded and managed the Niles Canyon Trail Connectivity Feasibility Study. This study analyzed a potential trail alignment through Niles Canyon and identified the Ridge Trail at-grade crossing of the NCR as an important connector to the Niles Canyon Trail.

As part of the feasibility study multiple crossing alternatives were evaluated including separated and at-grade options. The at-grade crossing was determined to be the most feasible as it is the least impactful to the environment and the operations of the NCR, and it provides a safe and desirable crossing option for trail users.

For mitigation of the project, the Park District will work with the County to install safety improvements for pedestrians and bicyclists at the NCR crossing of Kilcare Road in Sunol, CA. This will be a benefit for the community members of Sunol and regional users, helping to safely connect those traveling on foot or bicycle between Foothill Road and Kilcare canyon to main street.

Upon approval from the California Public Utilities Commission the County will grant the Park District a license to construct the crossing. This crossing will facilitate access to the Ridge Trail affording our community the ability to enjoy fresh air, nature and exercise. We believe the proposed at-grade crossing is designed with care and is consistent with local, state and Federal guidelines. If you have any questions regarding this matter, please feel free to reach me at (925) 551-6995 or [bosdist1@acgov.org](mailto:bosdist1@acgov.org).

Sincerely,

A handwritten signature in black ink that reads "David G. Haubert". The signature is written in a cursive style with a large, stylized "D" and "H".

David Haubert  
Alameda County Supervisor  
District 1

CC: EBRPD Board of Directors  
EBRPD General Manager



## BOARD OF SUPERVISORS

RICHARD VALLE  
Supervisor, District 2

August 12, 2022

Felix Ko, P.E., Senior Engineer  
Rail Crossings and Engineering Branch  
San Francisco Office  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: Support for the At-grade crossing of the Niles Canyon Railway**

Dear Mr. Ko,

District 2 is writing to express our strong support for the East Bay Regional Park District's (Park District) application to install an at-grade crossing of the Niles Canyon Railway (NCR). The NCR crossing will substantially enhance the development of the Bay Area Ridge Trail (Ridge Trail) as it connects Garin Regional Park to Niles Canyon.

The Park District, in partnership with the County, Alameda County Water District (ACDW), and the San Francisco Public Utilities Commission (SFPUC), funded and managed the Niles Canyon Trail Connectivity Feasibility Study. This study analyzed a potential trail alignment through Niles Canyon and identified the Ridge Trail at-grade crossing of the NCR as an important connector to the Niles Canyon Trail.

As part of the feasibility study multiple crossing alternatives were evaluated including separated and at-grade options. The at-grade crossing was determined to be the most feasible as it is the least impactful to the environment and the operations of the NCR, and it provides a safe and desirable crossing option for trail users.

For mitigation of the project, the Park District will work with the County to install safety improvements for pedestrians and bicyclists at the NCR crossing of Kilkare Road in Sunol, CA. This will be a benefit for the community members of Sunol and regional users, helping to safely connect those traveling on foot or bicycle between Foothill Road and Kilkare canyon to main street.

Upon approval from the California Public Utilities Commission, Alameda County Public Works Agency will issue the Park District a license to construct the crossing. This crossing will facilitate access to the Ridge Trail affording our community the ability to enjoy fresh air, nature and exercise. We believe the proposed at-grade crossing is designed with care and is consistent with local, state and federal guidelines.

Sincerely,

Richard Valle  
Supervisor, Alameda County District 2

CC: EBRPD Board of Directors  
EBRPD General Manager  
Daniel Woldesenbet, Director, Alameda County Public Works  
Henry Baum, President, Niles Canyon Railway

**EXHIBIT I - NOTICE OF DETERMINATION**

## Notice of Determination

Appendix D

## To:

☐ Office of Planning and Research  
 U.S. Mail: \_\_\_\_\_ Street Address: \_\_\_\_\_  
 P.O. Box 3044 1400 Tenth St., Rm 113  
 Sacramento, CA 95812-3044 Sacramento, CA 95814

☒ County Clerk  
 County of: Alameda  
 Address: 1106 Madison Street  
 Oakland, CA 94607

## From:

Public Agency: East Bay Regional Park District  
 Address: 2950 Peralta Oaks Court  
 Oakland, CA 94605

Contact: Sean Dougan, Trails Development Program  
 Phone: 510.544-2611

Lead Agency (if different from above):

Address: \_\_\_\_\_

Contact: \_\_\_\_\_

Phone: \_\_\_\_\_

**FILED**  
**ALAMEDA COUNTY**

NOV 08 2018

**STEVE MANNING, County Clerk**  
 By \_\_\_\_\_ Deputy

**SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.**

State Clearinghouse Number (if submitted to State Clearinghouse): 2018092055

Project Title: BAY AREA RIDGE TRAIL – Fremont to Garin

Project Applicant: East Bay Regional Park District

Project Location (include county): Fremont, Alameda County

## Project Description:

The East Bay Regional Park District proposes to construct and open approximately 5 miles of the Ridge Trail between Vallejo Mill Historical Park and Garin Regional Park, consisting of approximately 3.9 miles of new non-motorized multi-use recreational trail, and approximately 1.1 miles of existing maintained dirt roads. With the exception of the two parks at the end points of the trail, most of the proposed trail alignment would be located within an easement across private ranch lands. A total of seven drainage crossings (two new and five existing) would be provided for the proposed trail alignment. Several retaining walls would also be constructed.

This is to advise that the East Bay Regional Park District Board of Directors has approved the above  
☒ Lead Agency or ☐ Responsible Agency

described project on November 6, 2018 and has made the following determinations regarding the above  
 (date)  
 described project.

1. The project [☐ will ☒ will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final EIR with comments and responses and record of project approval, or the negative Declaration, is available to the General Public at:

2950 Peralta Oaks Court, Oakland, CA 94605

Signature (Public Agency): \_\_\_\_\_

Title: Trails Development Manager

Date: 11/7/18

Date Received for filing at OPP: \_\_\_\_\_

CLERK'S CERTIFICATE OF POSTING. Pub.  
 Res. 21152: I certify that a copy of this document  
 was posted at the Recorder's Office, Oakland, CA,  
 for the period prescribed by law.

Authority cited: Sections 21083, Public Resources Code.  
 Reference Section 21000-21174, Public Resources Code.

Executed at  
 Oakland, CA

Revised 2011

Date 12/31/2018 By \_\_\_\_\_

Deputy



# **\*ENVIRONMENTAL DECLARATION**

(CALIFORNIA FISH AND GAME CODE SECTION 711.4)

LEAD AGENCY NAME AND ADDRESS

FOR COUNTY CLERK USE ONLY

**EAST BAY REGIONAL PARK DISTRICT**  
2950 Peralta Oaks Court, P.O. Box 5381  
Oakland, CA 94605-0381

**FILED**  
ALAMEDA COUNTY

NOV 08 2018

STEVE MANNING, County Clerk  
By  Depu

FILE NO: 18-417

## **CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:**

(PLEASE MARK ONLY ONE CLASSIFICATION)

### **1. NOTICE OF EXEMPTION / STATEMENT OF EXEMPTION**

☐ A - STATUTORILY OR CATEGORICALLY EXEMPT

\$ 50.00 - COUNTY CLERK HANDLING FEE

### **2. NOTICE OF DETERMINATION (NOD)**

☒ A - NEGATIVE DECLARATION (OR MITIGATED NEG. DEC.)

\$ 2,280.75 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

☐ B - ENVIRONMENTAL IMPACT REPORT (EIR)

\$ 3,168.00 - STATE FILING FEE

\$ 50.00 - COUNTY CLERK HANDLING FEE

**3. OTHER:** \_\_\_\_\_

\*\*\*A COPY OF THIS FORM MUST BE COMPLETED AND SUBMITTED WITH EACH COPY OF AN ENVIRONMENTAL DECLARATION BEING FILED WITH THE ALAMEDA COUNTY CLERK.\*\*\*

### **BY MAIL FILINGS:**

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND TWO (2) SELF-ADDRESSED ENVELOPES.

### **IN PERSON FILINGS:**

PLEASE INCLUDE FIVE (5) COPIES OF ALL NECESSARY DOCUMENTS AND ONE (1) SELF-ADDRESSED ENVELOPE.

**ALL APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING.**

FEES ARE EFFECTIVE JANUARY 1, 2018

MAKE CHECKS PAYABLE TO: ALAMEDA COUNTY CLERK

## **EXHIBIT J - ENVIRONMENTAL AND SOCIAL JUSTICE STATEMENT**

As summarized below, both the Application and the Project are consistent with the CPUC's Action Plan and vision to advance equity in its programs and policies for Environmental Justice and Social Justice (ESJ) Communities.

### **Goal 1: Consistently integrate equity and access considerations throughout CPUC regulatory activities.**

The Application and Project are consistent with and advanced this goal. The Project's planning and environmental review process included extensive public and agency outreach. EBRPD conducted an initial study, and it was determined that the Project would not, with implementation of mitigation, have a significant effect on the environment; therefore, a Mitigated Negative Declaration (MND) was prepared in accordance with the California Environmental Quality Act (CEQA). All required public notices were published in the local newspaper of general circulation, posted at public parks and buildings in the vicinity of the project, and on the applicant's website, 30 days prior to the hearing. A copy of the Notice of Determination is included in Exhibit I.

### **Goal 2: Increase investment in clean energy resources to benefit ESJ communities, especially to improve local air quality and public health.**

The Application and Project are consistent with and advance this goal. The trail would be used for outdoor recreation for all members of the community benefiting public health. The trail also connects to regional trail facilities used for alternative transportation and will connect to planned facilities in the future that will link to the Bay Area Rapid Transit system.

### **Goal 3: Strive to improve access to high-quality water, communications, and transportation services for ESJ communities.**

The Application and Project are consistent with and advance this goal. The project provides direct access to open space from an existing trail network that serves central Alameda County.

### **Goal 4: Increase climate resiliency in ESJ communities.**

The Application and Project are consistent with and advance this goal. The Project offers access to open space without the need to travel by motor vehicle reducing greenhouse gas emissions.

### **Goal 5: Enhance outreach and public participation opportunities for ESJ communities to meaningfully participate in the CPUC's decision-making process and benefit from CPUC programs.**

The Application and project are consistent with and advance this goal. Please see the response to Goal 1, above. In addition, the project was discussed with many participants at all four Niles Canyon Stroll and Roll events (2015, 2017, 2019, 2022) in which over 10,000 people have the opportunity to travel through Niles Canyon on foot or bike and consider the potential recreation and trail connections in that area.

**Goal 6: Enhance enforcement to ensure safety and consumer protection for all, especially for ESJ communities.**

The Application and Project are consistent with and do not inhibit this goal. The Project alignment will be patrolled by the EBRPD police on bicycles and in vehicles to enhance the public safety of trail users.

**Goal 7: Promote high road career paths and economic opportunity for residents of ESJ communities.**

The Application and Project are consistent with and advance this goal. The Project provides major connectivity to open space from regional trails. The project will create a positive economic impact on the community and surrounding area by bringing visitors to the area an increasing employment opportunities and sales tax revenue.

**Goal 8: Improve training and staff development related to environmental and social justice within the CPUC's jurisdiction.**

The Application and Project are consistent with and do not inhibit this goal.

**Goal 9: Monitor the CPUC's environmental and social justice efforts to evaluate how they are achieving their objectives.**

The Application and Project are consistent with and do not inhibit this goal.